

S/N 10/821,223
Our Ref. No. 659-2246
Client Ref. No. 16146.1

REMARKS

In the Office Action mailed December 7, 2005, the Examiner rejected claims 1-20 under 35 USC 103 as being obvious over U.S. Patent No. 4,826,499 to Ahr in view of U.S. Patent No. 4,036,233 to Kozak. Applicants submit that since Ahr and Kozak fail to disclose or suggest all of the recitations of Applicants' claims, the rejections must be withdrawn. In addition, there is no suggestion to modify Ahr as taught by Kozak. Accordingly, the Examiner has failed to make out a prima facie case of obviousness for this additional reason.

Written Statement As To Substance of Interview:

Applicants gratefully acknowledge the Examiner's courtesy in conducting a telephone interview with the undersigned attorney on March 2, 2006. During the interview, the parties discussed claim 1 in view of Ahr and Kozak. The Examiner agreed that the rejection of claim 1 was overcome for the reasons set forth below.

Ahr and Kozak Fail To Disclose All of the Limitations of Claims 1 and 14:

Claim 1 recites "a first body panel having first and second opposite side edges; a second body panel having first and second opposite side edges; [and] a crotch portion extending between said first and second body panels." At least "a first fastener member and a second fastener member [are] fixedly secured to and [extend] *outboard from said first and second opposite side edges of said first body panel* respectively, wherein each of said first and second fastener members comprises a refastenable portion. In contrast, the "first and second extension members [are] fixedly secured to and [extend] *outboard from said first and second opposite side edges of said second body panel* respectively, wherein *said refastenable portion of said first fastener member*

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releasably engages said first extension member and wherein said refastenable portion of said second fastener member releasably engages said second extension member."

Claim 14 recites similar limitations.

In this way, claims 1 and 14 recite that the first and second fastener members are attached to one body panel, and that the first and second extension members are attached to a *different* body panel, with the respective body panels being separated by the crotch portion. In addition, both the fastener members *and* the extension members extend *outboard* from the *side edges* of the respective first or second body panels, with the fastener members then releasably engaging the extension members, as shown and disclosed for example and without limitation at Figure 4¹ (see also Specification at 18, lines 7-17; at 21, lines 3-13).

As a threshold matter, and as acknowledged by the Examiner, Ahr fails to disclose any elastic members extending from a body panel (front) opposite the rear body panel to which the fastening members are secured (Office Action at 3). In other words, Ahr fails to disclose "extension members" extending from the body panel opposite the rear body panel. Rather, the fastener members 44 are fixed to the rear waist portion 32 and engage the front waist portion 30. As such, Ahr fails to disclose any "extension member" extending "outboard" from a side edge of the waist portion that is engaged by the fastener members.

However, even a cursory review of Kozak reveals the same deficiency. In particular, Kozak does not have any extension member extending *outboard from a side edge* of a front body panel. In this respect, any "elastics,"² applied by the

¹ The right-hand one of the fastener members and extension members are folded over in a packaging configuration (see, e.g., Specification at 21, lines 5-7).

² In this respect, it is important to note that the recited "extension panels" of claims 1 and 14 are not necessarily made of an "extensible" material, but rather that they

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Examiner as the extension member, are interiorly inboard and between the side edges of the panels (*see* Kozak at Col. 5, lines 45-68; FIG. 3). In fact, Kozak teaches that the waistband is formed from the backsheet 14 and topsheet 16, thereby precluding some portion of either of those components from extending beyond itself (*id.*). Moreover, Kozak expressly discloses that the tape fasteners have one end fixed to the diaper chassis and the other end adapted to adhesively engage the same diaper chassis – there is no disclosure of an additional extension member “releasably engaged” by the fastener member as recited in claims 1 and 14, let alone that such an extension member extends *outboard* from the *side edge* of a bodypanel.

For these reasons, Ahr and Kozak fail to disclose or suggest all of the limitations of claims 1 and 14, and claims 2-13 and 15-24 depending therefrom, and the Examiner’s rejections should therefore be withdrawn.

There is no Suggestion to Combine Ahr and Kozak:

Ahr teaches that a fastening means 44 is secured to an elastic member 42, which allows for the fastening means 44 to be laterally displaceable for adjusting the fit of the diaper 20 (Col. 7, lines 13-32). In this way, the fastening mechanism provides flexibility without having to make the entire waist edge elastic (*see* FIGS. 1-5 – the elastics 42 are only provided on one end of the garment to allow for adjustment of the fastening means 44). In contrast, Kozak discloses the need for an elastic waistband that extends around the entire garment (Col. 2, lines 49-51). Ahr expressly denigrates this construction of Kozak, and other references teaching a stretchable waistband, as failing to “adequately address the need for a cost-effective fastening system which provides the garment with a better fit, improved adjustability,

“extend” or “increase” the lateral width of the garment. Of course, the extension panels of the present invention can be elasticized (Specification at 18 at 15-17).

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and the capability of being able to be pulled on or off the wearer without unfastening” (Ahr at Col. 1, lines 55-61). Accordingly, Ahr expressly teaches against constructing its own waistband as taught by Kozak. Accordingly, the Examiner’s rejection should be withdrawn for this reason alone.

Applicants further submit that there is no suggestion to provide an additional elastic member 42 of Ahr on the front waist portion 30 of Ahr since there is no component, such as an extension member, suitable for lateral displacement, which is the sole purpose behind the elastic members 42 (Ahr at Col. 7, lines 13-33). Indeed, Ahr discloses the need for such members on only one end of the garment to save costs etc. (Col. 2, lines 49-51). Since, as noted above, both Ahr and Kozak, fail to disclose such an additional component, there is no suggestion to make such a modification. Accordingly, the rejection should be withdrawn for this additional reason.

New Claims 21-24:

New claims 21-24 have been provided to further define Applicants invention. Support for the new claims is found throughout the specification, including the drawings.

Conclusion:

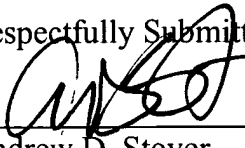
For all of the reasons set forth above, all of the claims are in condition for allowance and notice to that effect is earnestly solicited. A check in the amount of \$200 is enclosed for the additional dependent claims. If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

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By:

Respectfully Submitted,



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